

1849.111

(3) Settlement expenses not included in the audit.

(4) Number and dollar amount of any subcontractor settlements approved by the TCO and concluded by the contractor under delegation of authority.

(5) Total amount of any partial payments.

(6) Total of unliquidated progress or advance payments.

(7) Claims of the Government against the contractor included in settlement agreement reservations.

(8) Assignments, including the name and address of each assignee.

(9) Disposal credits.

(10) Status of plant clearance actions and all inventory sold, retained, or otherwise properly disposed of in accordance with applicable plant clearance regulations, including a consolidated closing plant clearance report, if applicable.

(11) Status of Government property accountability.

(12) Disposition of any special tooling, if applicable.

(13) Proposed reservations of rights to the Government or to the contractor.

(e) Recommendation. Amount of the gross settlement recommended and TCO statement that it is fair and reasonable to the Government and the contractor.

(f) TCO Signature and date.

1849.111 Review of proposed settlements. (NASA paragraphs (1) and (2))

(1) Settlements shall be reviewed in accordance with center-prescribed procedures.

(2) The TCO may authorize the contract administration office cognizant of a lower-tier subcontractor grant approval or ratification of proposed subcontractor settlements described in FAR 49.108-3(c) that are first reviewed and referred by the prime contractor to the TCO. This procedure is not applicable to settlements between the contractor and its first tier subcontractors.

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Subpart 1849.5—Contract Termination Clauses

1849.505 Other termination clause.

1849.505-70 NASA contract clause.

The contracting officer shall insert the clause at 1852.249-72, Termination (Utilities), in all solicitations and contracts for utilities services.

PART 1850—EXTRAORDINARY CONTRACTUAL ACTIONS

Subpart 1850.2—Delegation of and Limitations on Exercise of Authority

Sec.

1850.202 Contract adjustment boards.

Subpart 1850.3—Contract Adjustments

1850.305 Processing cases.

1850.305-70 Submission of request to the Contract Adjustment Board.

1850.306 Disposition.

1850.306-70 Implementation of the Contract Adjustment Board's decision.

Subpart 1850.4—Residual Powers

1850.403 Special procedures for unusually hazardous or nuclear risks.

1850.403-1 Indemnification requests.

1850.403-170 Subcontractor indemnification requests.

1850.403-2 Action on indemnification requests.

1850.470 Lead NASA installation.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 62 FR 14031, Mar. 25, 1997, unless otherwise noted.

Subpart 1850.2—Delegation of and Limitations on Exercise of Authority

1850.202 Contract adjustment boards.

14 CFR part 1209, subpart 3, Contract Adjustment Board, establishes the Contract Adjustment Board (CAB) as the approving authority to consider and dispose of requests from NASA contractors for extraordinary contractual actions.

Subpart 1850.3—Contract Adjustments

1850.305 Processing cases.

1850.305-70 Submission of request to the Contract Adjustment Board.

(a) After investigating the facts and issues relevant to the contractor's request, the contracting officer shall forward the request to the Associate General Counsel for General Law (Code GG), including in the forwarding letter—

- (1) The nature of the case;
- (2) The recommended disposition; and,

(3) If contractual action is recommended, the contracting officer's opinion that the action will facilitate the national defense.

(b) The forwarding letter shall enclose the contractor's request, all supporting material submitted by the contractor, and any material the contracting officer has obtained while investigating the facts and issues relevant to the request. Any classified information in the material forwarded shall be so identified.

(c) Electronic submittal is preferred for unclassified material.

1850.306 Disposition.

1850.306-70 Implementation of the Contract Adjustment Board's decision.

(a) The contracting officer shall take action authorized in the CAB's decision.

(b) Immediately upon execution, including any required Headquarters approval, of a contract or contract modification or amendment implementing the CAB decision, the contracting officer shall forward a copy of the contractual document to the Associate General Counsel for General Law (Code GG).

Subpart 1850.4—Residual Powers

1850.403 Special procedures for unusually hazardous or nuclear risks.

1850.403-1 Indemnification requests. (NASA supplements paragraph (a))

(a) The contractor shall also provide evidence, such as a certificate of insur-

ance or other customary proof of insurance, that such insurance is either in force or is available and will be in force during the indemnified period.

1850.403-170 Subcontractor indemnification requests.

Subcontractors shall submit requests for indemnification to the prime contractor and through higher tier subcontractor(s), as applicable. If the prime contractor agrees an indemnity clause should be flowed down to the subcontractor, the prime contractor shall forward its written request for subcontractor indemnification to the cognizant contracting officer for approval in accordance with FAR 50.403-1. The prime contractor's request shall provide information responsive to 1850.403-1, FAR 50.403-1, and FAR 50.403-2(a) (1), (2), (4), (5) and (7). The agreed upon definition of the unusually hazardous risk to be incorporated into the subcontract shall be the same as that incorporated in the prime contract.

1850.403-2 Action on indemnification requests. (NASA supplements paragraphs (a) and (d))

(a) If recommending approval, the contracting officer shall forward the required information to the Assistant Administrator for Procurement (Code HS), along with the following:

(i) For contracts of five years duration or longer, a determination, with supporting rationale, whether the indemnification approval and insurance coverage and premiums should be reviewed for adequacy and continued validity at points in time within the extended contract period.

(ii) A recommended Memorandum of Decision. In addition to the applicable requirements of FAR 50.306, the Memorandum of Decision shall contain the following:

(A) The specific definition of the unusually hazardous risk to which the contractor is exposed in the performance of the contract(s);

(B) A complete discussion of the contractor's financial protection program; and

(C) The extent to, and conditions under, which indemnification is being approved for subcontracts.

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(d) If approving subcontractor indemnification, the contracting officer shall document the file with a memorandum for record addressing the items set forth in FAR 50.403-2(a) and include an analysis of the subcontractor's financial protection program. In performing this analysis, the contracting officer shall take into consideration the availability, cost, terms and conditions of insurance in relation to the unusually hazardous risk.

1850.470 Lead NASA installation.

(a) Contractors applying for indemnification shall determine which NASA installation has the highest dollar amount of contracts for which indemnification is requested. The indemnification request should be submitted to the procurement officer for that installation, who will then designate a cognizant contracting officer. Contractors shall submit a single request and ensure duplicate requests are not submitted by associate divisions, subsidiaries, or central offices of the contractor.

(b) The receiving installation will become the lead installation and will remain so indefinitely. Lead installation designation may change to another installation if the affected procurement officers agree to the change. Should a change occur in the lead installation, all records related to indemnification of that contractor shall be transferred to the gaining installation.

PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS

Subpart 1851.1—Contractor Use of Government Supply Sources

Sec.

1851.102 Authorization to use Government supply sources.

1851.102-70 Contractor acquisition of filing cabinets.

AUTHORITY: 42 U.S.C. 2473(c)(1).

SOURCE: 62 FR 14032, Mar. 25, 1997, unless otherwise noted.

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Subpart 1851.1—Contractor Use of Government Supply Sources

1851.102 Authorization to use Government supply sources. (NASA supplements paragraph (e)).

(e) The contracting officer shall use substantially the following format for letters authorizing contractor use of Government supply sources:

SUBJECT: Authorization to Lease, Rent, or Purchase from General Services Administration (GSA) Supply Sources
(Contractor's name) _____
(Address) _____

(1) You are hereby authorized to act for the Government in the following matters:

(i) The acquisition of supplies and/or services under Contract No. _____ available for purchase by Government agencies either directly from GSA stock or under Federal Supply Schedules, including GSA nonmandatory ADTS/ADP schedule contracts and GSA ADP requirements contracts, subject to the limitations set forth in this authorization.

(ii) The leasing or rental of equipment for use on Contract No. _____ available for lease or rental by Government agencies under Federal Supply Schedules, including GSA nonmandatory ADTS/ADP schedule contracts and GSA ADP requirements contracts, subject to the limitations set forth in this authorization.

(iii) The issuance of tax exemption certificates in lieu of the payment of State or other taxes for which the government is not liable on supplies or services purchased under this authorization.

(2)(i) Purchase orders under GSA schedules and contracts shall be placed in accordance with the terms and conditions of the GSA schedule or contract and this authorization. A copy of this authorization shall be attached to the order (unless a copy was previously furnished to the GSA contractor) and shall contain the following statement:

“This order is placed on behalf of the National Aeronautics and Space Administration in furtherance of United